

REMARKS

Applicant has considered all points made by the Examiner in the Office Action and has responded to same in order to ensure compliance with the applicable rules.

1. Double Patenting.

The examining attorney has disapproved the prior-filed terminal disclaimer because it contained an incorrect patent number. The examining attorney has maintained the rejection of claims 13-17 of the instant application under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,530,577.

A corrected terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) is filed herewith.

2. 35 U.S.C. 102 rejection.

Claims 8 and 11 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5986196 to Behrenfeld.

Claims 8 and 11, as amended, require the placement of the dampening material in a position other than the position of impact on the vibratable surface. In contrast, to perform its stated purpose of protecting a drum head when it is struck, the impact pad of the Behrenfeld device must be positioned at the point of impact.

In light of the above, Applicants respectfully submit that claims 8 and 11 are not anticipated by the Behrenfeld reference. Accordingly, Applicants respectfully request the examining attorney to withdraw the rejection under 35 U.S.C. § 102(b) for claims 8 and 11.

3. 35 U.S.C. 103 rejection.

Claims 13 - 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Fyfe (U.S. Patent No. 6,806,212) in view of Iiyama et al (Japan Patent No. JP02003001648A). Applicants respectfully traverse these rejections.

The combination of Fyfe with Iiyama does not teach all of the claim limitations of Applicants' invention. "To establish a prima facie case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations." M.P.E.P. § 2143; *see In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In particular, neither Fyfe nor Iiyama teach the application of the cured polyurethane mix and base material to a vibratable surface as recited in amended claim 13.

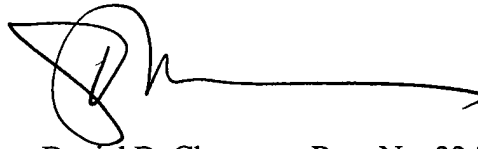
Because the combination of Fyfe and Iiyama does not teach all of the limitations of Applicants' invention, the combination does not establish a prima facie case of obviousness.

CONCLUSION

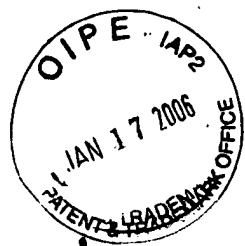
For the foregoing reasons, it is submitted that the proposed amendments comply with 37 CFR 1.116 and should therefore be entered, and with their entry that the application is now in condition for allowance. Such action therefore is respectfully requested.

In view of the above, Applicant respectfully requests reconsideration.

Respectfully submitted,
JACKSON WALKER L.L.P.

A handwritten signature in black ink, appearing to be 'D. Chapman', with a long horizontal line extending to the right.


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